

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

JUSTIN DUFOE, Individually and on Behalf of  
All Others Similarly Situated,

FILED  
Clerk's Office  
USDC Mass.  
Date 11-17-25  
By FC  
Deputy Clerk

Plaintiff,

v.

DRAFTKINGS INC., et al.,

Defendants.

Case No. 1:23-cv-10524-DJC

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PRO SE MOTION FOR EQUITABLE TOLLING AND ACCEPTANCE OF LATE-FILED CLAIM  
(Michael Camizzi – Claim Filed August 8, 2025 - Claim #889682816)

I, Michael Camizzi, a pro se Settlement Class Member, move this Court to accept my Proof of Claim filed August 8, 2025 — the same day I first learned of the settlement. This Motion responds to the Administrator's denial (modeled on the David Kipe response) and distinguishes my immediate, good-faith filing from any pre-deadline strategic delay alleged in ECF Nos. 116 & 117.

**I. RELIEF REQUESTED**

Accept my claim under the Court's retained jurisdiction (Stipulation ¶32), Preliminary Approval Order ¶15, FRCP 6(b)(1)(B), and inherent equity. My 18-day delay resulted solely from non-receipt of official email notice; I filed within hours of first learning via a single, casual online message — no pre-deadline knowledge, no gaming.

**II. FACTUAL BACKGROUND**

1. I purchased from the DraftKings Marketplace during the Class Period and am a confirmed Settlement Class Member.
2. Email Notice was reportedly sent successfully (~March/April 2025), but I never received it — not in inbox, spam, promotions, or any folder. I also never received a postcard.
3. On August 8, 2025, I saw one brief, casual online message — my first awareness of the settlement.
  - I had no prior knowledge from any source.
4. Within hours, I visited draftkingsnftsettlement.com and filed my claim the same day (August 8, 2025).

5. I received the October 7, 2025 Claim Status Letter. I requested reconsideration; the Administrator denied, citing the Kipe response.

### III. LEGAL ARGUMENT

#### A. Pioneer Excusable Neglect –All Factors Met

\*Pioneer Inv. Servs. Co. v. Brunswick Assocs., 507 U.S. 380 (1993)\*

Factor : Camizzi's Case

Prejudice : None – Fund undistributed; my share de minimis. All late claims = ~9% dilution (Brauns Decl., ECF No. 117).

Length of Delay : 18 days – same-day filing upon discovery.

Reason for Delay : No official notice – email failed. Single online message = first effective notice.

Good Faith : Filed within hours – no delay, no strategy.

#### B. Due Process: Official Notice Failed

\*Mullane v. Central Hanover Bank & Trust Co., 339 U.S. 306 (1950)\* – Notice must be reasonably calculated to apprise me. Email alone failed. August 8 online message was my first effective notice — and I acted immediately.

\*Silber v. Mabon, 18 F.3d 1449 (9th Cir. 1994)\* – Late relief granted when notice ineffective despite program validity.

#### C. No Evidence of Gaming Applies

- ECF No. 116 cites pre-deadline strategic posts.
- My message was post-deadline and non-strategic — no delay advice.
- I filed the same day — behavior of a diligent claimant, not a gamer.
- No evidence links me to any strategy — my sworn declaration is sufficient.

#### D. Settlement Allows This Relief

- ¶15 & ¶27 permit late claims that do not delay distribution — none has begun.
- Class Counsel neutral, suggesting a motion cutoff — my case fits any fair standard.

### IV. CONCLUSION

I acted as soon as I learned — same day. Denying me would punish diligence while rewarding only email recipients. Equity demands inclusion.

I request the Court:

1. GRANT this Motion
2. Accept my August 8 claim
3. Direct the Administrator to process it
4. Set a final late-claim deadline, if needed

Dated: November 7, 2025

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Pro Se

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**UNSWORN DECLARATION UNDER PENALTY OF PERJURY**  
**(28 U.S.C. § 1746 – NO NOTARY OR LOGS REQUIRED)**

I, Michael Camizzi, declare under penalty of perjury under the laws of the United States that the foregoing is true and correct to the best of my knowledge:

1. I never received the email or postcard notice.
2. On August 8, 2025, I saw one brief, casual online message — my first awareness.
3. I filed my claim within hours — same day.
4. I had no prior knowledge. No strategic intent.

Executed on: November 7, 2025

  
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Michael Camizzi